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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,414	11/16/2001	Gil Gavriel Dudkiewicz	051448.0206	1945
7590	03/11/2005		EXAMINER	
David A. Blumenthal Foley & Lardner 2029 Century Park East - Suite 3500 Los Angeles, CA 90067-3021			SALCE, JASON P	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/992,414

Applicant(s)

DUDKIEWICZ ET AL.

Examiner

Jason P Salce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6-14, 16-23 and 25-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-14, 16-23 and 25-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 9/30/2004 have been fully considered but they are not persuasive.

Applicant argues that the combination of Eick and Lee fail to teach a qualified keyword tool of claim 5 (which has been cancelled and amended into claim 1). The examiner disagrees notes that Eick and Lee teach the applicant's interpretation of the term "qualified" and how the examiner should treat this term.

The examiner notes Figure 4-9 for the category tools described in the previous Office Action. Note that these figures not only provide a category tool (for example, see Figure 4, which provides a category tool by allowing a user to select a genre category (MOVIES)), but also describes a qualified keyword tool, but allowing a user to select a keyword in the keyword field (for example to select the "UFO" keyword), therefore the tools are used to build a desired search (profile). Therefore, the qualified keyword is "UFO", and only shows that are based around MOVIES and UFO, will be selected for display to a viewer.

Therefore the rejection presented in the previous Office Action stands, and this Office Action is made Final.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 6-14, 16-23 and 25-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eick et al. (U.S. Patent No. 5,912,664) in view of Lee et al. (U.S. Patent No. 6,483,428).

Referring to claim 1, Eick discloses a category tool for receiving input from a user specifying predefined subject matter categories representing subject matter of interest to the viewer (see Figure 7 and Column 7, Lines 25-28).

Eick also discloses the subject matter represented by each of said predefined categories is defined such that the predefined categories together form a hierarchy comprising at least a set of top-level categories, respective sets of first level-sub categories each corresponding to and encompassed by a top level category, and respective sets of second level sub-categories each corresponding to and encompassed by a first level sub-category (see Figure 7 for the top level categories, Figure 8 for the first sub-level of categories and Figure 9 for the second sub-level of categories, and therefore provide a hierarchy of categories).

Eick also discloses that the category tool is responsive to user navigation commands to provide navigation among said predefined categories in accordance with said hierarchy (see Column 7, Lines 25-28, Lines 46-49 and Line 67 and Column 8, Lines 1-4 for navigating through the three levels of categories).

Eick fails to disclose a qualified keyword tool for receiving input from a user associating a keyword supplied by the user with a specific category of the category

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hierarchy to indicate that the keyword describes subject matter of interest to the viewer only when the subject matter is also described by the category associated with the keyword.

Lee discloses a qualified keyword tool for receiving input from a user associating a keyword supplied by the user with a specific category of the category hierarchy to indicate that the keyword describes subject matter of interest to the viewer only when the subject matter is also described by the category associated with the keyword (see Figure 4 for the "keyword" field, which also allows a user to select various keywords to limit a user's created profile and/or search (also note Column 8, Lines 28-39 and Column 9, Lines 5-13). Note that Figure 4 not only provides a category tool (for example, see Figure 4, which provides a category tool by allowing a user to select a genre category (MOVIES)), but also describes a qualified keyword tool, but allowing a user to select a keyword in the keyword field (for example to select the "UFO" keyword), therefore the tools are used to build a desired search (profile). Therefore, the qualified keyword is "UFO", and only shows that are based around MOVIES and UFO, will be selected for display to a viewer.

At the time the invention was made, it would have been obvious of ordinary skill in the art, to modify the hierarchical menu system as taught by Eick, using the qualified keyword tool, as taught by Lee, for the purpose of minimizing the amount of training required to use a search interface, improving the intuitiveness of the interface and improving the ease of use of the interface (see Column 1, Lines 43-46 of Lee).

Claim 2 corresponds to claim 1, where Eick discloses all of the limitations in claim 1, but fails to disclose the limitations of a keyword tool. Lee discloses that the user interface further comprises a keyword tool for receiving input from a user specifying keywords representing subject matter of interest to the viewer (see step S135 in Figure 18).

Claim 3 corresponds to claim 2, where Lee discloses that input received by said keyword tool comprises keyword preference scores indicating an amount of viewer interest in subject matter represented by a specified keyword (see step S140 in Figure 18 for identifying common terms using the keywords and then ranking the entire list in step S145).

Claim 4 corresponds to claim 1, where Lee discloses that input received by said category input tool comprises category preference scores indicating an amount of viewer interest in subject matter represented by a specified predefined category (see Column 10, Lines 16-24 for specifying a category score).

Referring to claim 6, see rejection of claim 3.

Claim 7 corresponds to claim 4, where Lee discloses element 140' in Figure 7 for specifying how much a user likes and dislikes certain categories of programs.

Claim 8 corresponds to claim 1, where Lee discloses a priority tool for receiving input from a user specifying a priority of said viewer profile relative to other viewer profiles when multiple viewer profiles are used for determining programming events of interest (see Column 4, Lines 29-34 for adjusting the weighting of a user profile).

Claim 9 corresponds to claim 1, where Lee discloses an alert per time period tool for receiving input from a user specifying a maximum number of alerts to be generated within a given time period using said viewer profile (see Column 3, Lines 31-34 for alerting a viewer of upcoming programming event, also note Column 3, Lines 23-25 for monitoring the user's viewing pattern (i.e. viewer input)).

Claim 10 corresponds to claim 1, where Lee discloses an alert time advance tool for receiving input from a user specifying, for a programming event determined to be of interest using said viewer profile, an amount of time prior to the programming event that an alert for the programming event is to be provided (see Column 3, Lines 23-48 for alerting the viewer of an upcoming programming according to a viewer profile). Note that at Column 3, Lines 31-34, the alert is for an "upcoming program", therefore the user is inherently alerted before the program will be viewed.

Claim 11 corresponds to claim 1, Lee discloses a profile activation time tool for receiving input from a user specifying times of day during which the viewer profile is to be used for identifying programming events of interest (see Column 4, Lines 54-62 for ranking a time range when a viewer would like to view programs).

Claim 12 directly relates to claim 1, where Eick and Lee disclose all of the limitations in claim 1, and Lee disclosing the additional limitation of storing data representing said specified predefined categories in a viewer profile in a computer readable medium (see Column 7, Lines 11-18 for storing preference and profile information).

Referring to claims 13-14 and 16-20, see rejection of claims 2-4 and 8-11, respectively.

Referring to claim 21, see rejection of claim 12.

Referring to claims 22-23 and 25-29, see rejection of claims 2-4 and 8-11, respectively.

### ***Conclusion***

**3. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**4.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (703) 305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 9, 2005



HAITRAN  
PRIMARY EXAMINER